S.B.CIVIL RESTORATION APPEAL NO. 28/2004

Date of order: 27.7.2004

HON'BLE MR. JUSTICE N.P.GUPTA

Mr. Girish Kumar Sharda, for the petitioners.

Heard learned counsel for the petitioners.

The appeal was dismissed by this Court on 23.4.2004 as nobody appeared on behalf of the appellant. It is contended in the restoration application that the it was learnt from the computer that the date was fixed in the case on 22.4.2004 but that day was declared holiday, and the case was fixed on 23.4.2004, on which date learned counsel was suddenly taken ill, and therefore, could not appear.

A look at the file of original appeal shows that the things are not as simple, inasmuch as, appeal was filed on 27.2.2003, the Registry pointed out certain defects, and the learned counsel did not appear before the Dy. Registrar(Judl.) on 14.10.2003, and the case was ordered to be put up on 7.11.2003, on which date he removed the defects, and thereafter the Registry posted the case for admission on 17.11.2003. However, the case was listed on 14.1.2004 on which date again he did not appear, still in absence the Court admitted the appeal, and thereafter learned counsel has never appeared in the case at all. In these circumstances, I have not been able to persuade myself to believe the story propounded in the restoration application.

In that view of the matter, I do not find any force in the restoration application. The same is, therefore, dismissed.

(N.P.GUPTA), J.